

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

ORDER

Soma Devi.

Versus

Om Prakash.

S.B. Criminal Misc. Petition No. 204/2003
against the order dated 6-1-2003 passed
by the Additional Chief Judicial Magistrate,
Suratgarh, district Sri Ganganagar, in
Criminal Misc. Case No.255/2001.

...

Date of Order:

December 18, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

None present for the parties.

BY THE COURT:

No one appears for the parties despite repeated calls.

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 6-1-2003 passed by the Additional Chief Judicial Magistrate, Suratgarh, district Sri Ganganagar (for short, "the trial Court" hereinafter), whereby the trial Court partly allowed the application filed by the petitioner for granting her monthly allowance of maintenance and while granting monthly allowance of interim maintenance @ Rs.500/- per month in favour of her two minor sons Kuldeep aged about 9 years and Pradeep aged

about 7 years, declined to grant monthly allowance of interim maintenance in favour of the present petitioner Smt. Soma Devi on the ground that there is prima facie evidence that she is living in adultery.

On careful perusal of the order impugned and the material on record, in my view, the trial Court was justified in declining to grant monthly allowance of interim maintenance in favour of the present petitioner. There is specific plea of the non-petitioner that the petitioner is living in adultery with his younger brother Prakash and on this specific allegation, the trial Court did not consider it proper to grant monthly allowance of interim maintenance in favour of the petitioner. The question of entitlement of the petitioner for the monthly allowance of maintenance is to be decided at the time of final hearing of the application under Section 125 of the Code by the trial Court. In the circumstances, therefore, no case for interference in the impugned order under the inherent jurisdiction is made out.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs